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S/N 10/730,854

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Brian Jones, et al.	Examiner:	W. Tsui
Serial No.:	10/730,854	Group Art Unit:	2176
Filed:	December 9, 2003	Docket No.:	60001.0301US01/MS305235.1
Title:	Representing Latent Data in an Extensible Markup Language Document		

CERTIFICATE UNDER 37 CFR 1.6(d):

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on May 5, 2006.

By: 
Name: Tina M. CooperMail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450**27488**
PATENT TRADEMARK OFFICE

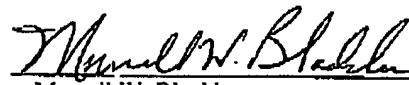
Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Facsimile
- ☒ Supplemental Information Disclosure Statement 37 C.F.R. §1.97(c)

Please charge Deposit Account No. 13-2725 in the amount of **\$180.00** for the fees associated with the filing of this Supplemental Information Disclosure Statement 37 C.F.R. §1.97(c). Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate.

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
612.332.5300By: 
Name: Murrell W. Blackburn
Reg. No.: 50,881
MWB/tmc

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By: 
Name: Tina M. CooperSUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT (37 C.F.R. § 1.97(c))

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This statement should be considered because it is submitted after the mailing date of a first Office Action on-the-merits or a first Office Action after filing a Request for Continued Examination under 37 C.F.R. § 1.114, but before the mailing date of: i) a final action under 37 C.F.R. § 1.113; ii) a Notice of Allowance under 37 C.F.R. § 1.311; or iii) an action that otherwise closes prosecution on the application. Please charge Deposit Account No. 13, 2725 in the amount of \$180 under 37 C.F.R. § 1.17(p) for filing of the Information Disclosure Statement.

At least some of the features disclosed in the patent application identified above (hereinafter "the Application") may have been included in a beta release of Microsoft Office software, which occurred in October 2002. Therefore, it is possible some of the system code incorporating the described implementations was disclosed to a controlled set of users more than one year before the filing date of the Application. This beta release of the Office software, which was conducted for testing purposes, included approximately five thousand users. It is significant to note that the beta release was distributed to a fixed number of users, and each user

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acknowledged a Microsoft non-disclosure agreement. The non-disclosure agreement included the following clause:

7. CONFIDENTIALITY. The Product, including its existence and features, and related information are proprietary and confidential information to Microsoft and its suppliers. Recipient agrees not to disclose or provide the Product, documentation, or any related information (including the Product features or the results of use or testing) to any third party, prior to commercial release of the Product. However, Recipient may disclose confidential information in accordance with judicial or other governmental order, provided Recipient shall give Microsoft reasonable written notice prior to such disclosure and shall comply with any applicable protective order or equivalent. Further, Recipient shall not be liable to Microsoft for disclosure of information which Recipient can prove (a) is already known to Recipient without an obligation to maintain the same as confidential; (b) becomes publicly known through no wrongful act of Recipient; (c) is rightfully received from a third party without breach of an obligation of confidentiality owed to Microsoft; or (d) is independently developed by Recipient. The obligations of this Section 7 are in addition to the terms of any confidentiality or non-disclosure agreement that may exist between Microsoft and Recipient.

Since the beta release was distributed to a fixed number of users that acknowledged the above confidentiality clause, Applicants believe submission of the claims in the Application is proper.

No representation is made that a reference is "prior art" within the meaning of 35 U.S.C. §§ 102 and 103 and Applicants reserve the right, pursuant to 37 C.F.R. § 1.131 or otherwise, to establish that the reference(s) are not "prior art." Moreover, Applicants do not represent that a reference has been thoroughly reviewed or that any relevance of any portion of a reference is intended.

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Consideration of the items listed is respectfully requested. Pursuant to the provisions of M.P.E.P. 609, it is requested that the Examiner return a copy of the attached Form 1449, marked as being considered and initialed by the Examiner, to the undersigned with the next official communication.

Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725.

Respectfully submitted,

MERCHANT & GOULD



Murrell W. Blackburn
Reg. No. 50,881

Date: May 5, 2006

Merchant & Gould, LLC
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Minneapolis, Minnesota 55402-0903
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